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8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE CEMETERY AND FUNERAL BUREAU**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. A1 2017 222

12
13 **FAMILIES FIRST FUNERAL SERVICES,**
SHON-TAI BURTON
14 **550 East Carson Plaza Dr., Suite 123**
Carson, CA 90746

ACCUSATION

15
16 **Funeral Establishment License No. FD 2247**

17 **SHON-TAI M. BURTON**
813 E. Palmer Street
18 **Compton, California 90221**

19 **Funeral Director License No. FDR 3039**

20 Respondents.

21
22 Complainant alleges:

23 **PARTIES**

24 1. Lisa M. Moore (Complainant) brings this Accusation solely in her official capacity as
25 the Bureau Chief of the Cemetery and Funeral Bureau (Bureau), Department of Consumer
26 Affairs.

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1 Failure of the designated managing licensed funeral director and/or the licensed funeral
2 establishment to exercise such supervision or control, or failure of the holder of the funeral
3 establishment license to make such designation shall constitute a ground for disciplinary action.”

4 14. CCR, title 16, section 1223, subdivision (a), provides:

5 “No embalming, preparation or storage room shall be located in any public storage, mini-
6 storage, mini-warehouse, multi-unit storage complex or similar facility used by members of the
7 general public for the storage of goods. Any existing embalming, preparation or storage room
8 located in a prohibited facility shall be relocated and brought into full compliance with this
9 section, within twelve (12) months of this subsection's effective date.”

10 **COSTS RECOVERY**

11 15. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request
12 “the administrative law judge to direct a licensee found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case”

15 **STATEMENT OF THE CASE**

16 **A. Consumer Complaint Regarding Decedent L.P.**

17 16. The Bureau received a complaint from M.P., the mother of decedent L.P., that alleged
18 Respondents failed to provide funeral services and cremation of the decedent. Respondents held
19 the decedent's remains at a church and refused to release the remains to another funeral
20 establishment until an additional charge for storage was paid. An investigation substantiated the
21 allegations.

22 17. On June 20, 2017, a Bureau investigator interviewed M.P. and was informed that her
23 daughter L.P. passed away on May 4, 2017.

24 18. On May 10, 2017, M.P. spoke with Respondents' employee Michael A. Brass, Jr.
25 (Brass). Brass told M.P. that Respondents could provide a funeral service and cremation for
26 \$2,395.00.

27 19. On May 15, 2017, M.P. met Brass at Respondents' funeral establishment. Brass
28 confirmed he would pick up L.P.'s remains from the coroner's office, embalm and place her

1 remains in a casket, conduct a funeral service with funeral programs, provide a limousine, hearse,
2 flowers, viewing, register book, thank you cards, death certificates, permit and cremation. Brass
3 told M.P. that L.P.'s cremated remains would be returned to her in a plastic urn in forty-five days.
4 M.P. signed a Statement of Funeral Goods and Services contract with Brass and gave Brass a
5 check for \$2,395.00. The funeral service was scheduled for June 3, 2017.

6 20. M.P. telephoned Brass multiple times, sent emails and text messages, but he failed to
7 respond. Thus, M.P. contracted with a printing company for the funeral programs and thank you
8 cards for the funeral service.

9 21. M.P. asked Brass if she were to bury her daughter, how much of the money she paid
10 for the cremation would be applied to a burial and Brass replied, "None." He said she would owe
11 money for transporting the decedent, \$175.00 for transferring the paperwork from cremation to
12 burial, and another fee for the burial casket and vault.

13 22. On or about June 10, 2017, M.P. told Brass she was having her daughter's remains
14 moved to Family Memorial Mortuary and Crematory (Family Memorial). Brass told M.P. he
15 would not release the remains until he was paid an additional \$1,000.00 for storing the decedent's
16 remains.

17 23. According to Family Memorial's owner, Brass told the owner that its driver should
18 bring a check for \$1,000.00 before the remains would be released. When the owner asked Brass
19 where to pick up the decedent's remains, Brass initially said at Snyder's Care Center (Snyder's)
20 and then he said at his church, which is unaffiliated with Respondents' funeral establishment.

21 24. Respondents failed to provide a viewing or visitation of L.P.'s remains, a limousine,
22 funeral programs, thank you cards, death certificates, burial permit, or cremation of L.P.'s
23 remains.

24 Interview of Respondents' Employee Brass on July 18, 2017

25 25. On July 18, 2017, a Bureau investigator met with Brass at Respondents' funeral
26 establishment. Brass admitted that L.P.'s remains were embalmed at Snyder's [May 30, 2017] and
27 he transported L.P.'s remains to his church to be dressed and casketed. Respondent Burton is
28 Brass' wife and the manager of record.

1 26. The investigator asked Brass why the Statement of Funeral Goods and Services
2 contract for L. P. showed a \$350.00 charge for "Use of Facilities & Staff for Viewing" since
3 L.P.'s remains were not viewed. Brass replied when M. P. looked at L.P.'s remains at his church
4 that was considered viewing.

5 27. When the investigator asked why the Statement of Funeral Goods and Services
6 contract for L.P. referenced a Clair white metal rental casket, while Respondents' Casket Price
7 List (CPL) referenced a Brockton oak rental casket, Brass replied the Clair was converted into a
8 rental casket by Universal Casket. Earlier, the investigator spoke with an Astral Casket Company
9 representative and then later with Universal Casket's owner, who said that they have not
10 converted any metal caskets into rental caskets for Respondents.

11 28. Brass admitted to the investigator that he did not provide M.P. with funeral programs,
12 death certificates, a permit, or the cremation of L.P.

13 29. When asked why he told M.P. it would take forty-five days for L.P.'s cremation,
14 Brass told the investigator it usually takes the crematory forty-five days to return cremated
15 remains and he wanted to provide M.P. with a time frame to expect the remains.

16 30. Brass denied he told M.P. and Family Memorial's owner he was going to charge M.P.
17 \$1,000.00 for storage of L.P.'s remains.

18 31. Brass declined to answer additional questions and stated he wanted to speak with his
19 attorney. The investigator asked Brass to meet at the church where L.P.'s remains were prepared
20 and stored and Brass refused.

21 Bureau's Contacts with Respondent Burton

22 32. On July 18, 2017, the Bureau investigator spoke by telephone with Respondent
23 Burton. Respondent Burton said she was unable to meet because she was at work, but agreed to
24 meet on July 20, 2017 at 10:30 a.m. On July 20, 2017, the investigator arrived for the meeting.
25 The investigator left Respondent Burton a voice mail that they were at Respondents' funeral
26 establishment waiting. Respondent Burton returned the call and again said she could not meet
27 because she was working. Respondent Burton rescheduled for July 24, 2017.

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33. On July 24, 2017, the investigator telephoned Respondent Burton who said she was at work so she only had 15 minutes. Respondent Burton said she reviewed L.P.'s funeral file but was not familiar with the complaint. She also said she may consult with an attorney and may decline to complete the Bureau's declaration.

34. On August 8, 2017, the investigator left a voice mail for Respondent Burton regarding completion of the Bureau's declaration. On August 9, 2017, via voice mail, Respondent Burton replied, "go ahead" with the investigation without my input.

Decedent L.P.'s Remains at Brass' Church

35. On August 31, 2017, the investigator telephonically interviewed hair stylist K.W. who said he attempted to do L.P.'s hair at Brass' church. Brass escorted him into the rear of the church where he saw L.P.'s remains on what appeared to be a plastic folding table. There was a strong odor of embalming fluid in the room and L.P.'s remains were leaking on the floor. Brass was using towels to wipe the fluids from L.P.'s remains that were on the floor. K.W. stated that the table L.P.'s remains were on was too low for him to style her hair. He and Brass went to a store and purchased a wig. K.W. placed the wig on L.P. and left the building.

B. Bureau's Complaint Regarding Failure to Cremate Decedents

36. The Bureau initiated a complaint against Respondents after receiving information that Respondents failed to cremate decedents in a timely manner after the next of kin prepaid for the cremations. Specifically, on July 10, 2017, Family Memorial's owner told a Bureau investigator that Respondents bring decedents to Family Memorial for cremations and have failed to pay in a timely manner. The owner stated that the crematory currently had five of Respondents' decedents on hold. The decedents are identified as follows:

<u>Decedents</u>	<u>Date of Death</u>	<u>Date Received by Crematory</u>	<u>Date of Cremation</u>
E.S.	April 2, 2017	May 11, 2017	July 12, 2017
T.J.	June 12, 2017	June 13, 2017	July 12, 2017
R.B.	March 28, 2017	May 12, 2017	July 13, 2017
P.D.	Unknown	May 25, 2017	Unknown
L.H.	May 1, 2017	May 25, 2017	July 14, 2017

1 Interview of Brass on July 18, 2017

2 37. On July 18, 2017, the Bureau investigator reviewed Respondents' contracts regarding
3 the decedents on hold at Family Memorial which confirmed the consumers pre-paid for the
4 cremations.

5 38. The investigator's review of Respondents' contracts for the subject decedents
6 reference a "Clair Rental, 20 Gauge Steel" casket. However, Respondents' CPL provides for a
7 Brockton Oak rental casket instead of a "Clair Rental, 20 Gauge Steel" casket.

8 39. Respondents failed to timely file four death certificates with the local registrar of
9 births and deaths within eight calendar days after death and prior to any disposition of the human
10 remains. Brass admitted fault and stated he is a "one-man operation." See as follows the identities
11 of the decedents, the dates of death and the date when the certificates were filed and permits were
12 issued:

<u>Decedents</u>	<u>Date of Death</u>	<u>Date of Permit Issuance</u>
E.S.	April 2, 2017	June 7, 2017
T.J.	June 12, 2017	June 20, 2017
R.B.	March 28, 2017	June 9, 2017
L.H.	May 1, 2017	May 17, 2017

18 40. Respondents failed to provide specific services, charged unnecessary merchandise or
19 services to the next of kin of decedents E.S., R.B., and T.J. Review of the subject contracts and
20 interviews with the next of kin revealed as follows:

21 a. There was no viewing of decedent E.S., no hearse provided, no limousine
22 provided, no funeral programs provided, no pallbearers' gloves provided, and no death certificates
23 provided.

24 b. There was no viewing of decedent R.B., no death certificates provided, and
25 Respondents unnecessarily charged \$100.00 for an "Air Tray" which is used to ship casketed
26 remains on an airline, and \$300.00 for a "Cremation Fee" listed under "Cash Advances."

27 c. On May 15, 2017, Respondents contracted with T.J.'s next of kin for \$4,759.20
28 and charged the customer \$2,000.00. Simultaneously, Respondents overbilled the Victims of

1 Violent Crimes \$7,891.50. After T.J.'s funeral, Respondents reimbursed the next of kin
2 \$3,050.00.

3 d. Respondents charged T.J.'s next of kin for two limousines but provided only one.
4 Respondents overcharged \$1,750.00 for a "Clair Silver" rental casket, while Respondents' CPL
5 and other contracts reflect \$780.00 for the same casket. Respondents misrepresented that three
6 motorcycle escorts were provided at a cost of \$525.00, a vault for \$700.00, a flower stand and one
7 plant for \$500.00, while none were provided.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Misrepresentation or Fraud)**

10 41. Respondents Families First Funeral Services and Shon-Tai Burton have subjected
11 their licenses to discipline under sections 7686, 7692 and 7706 of the Code in that Respondents
12 committed misrepresentation or fraud in the conduct of the business or the profession of a funeral
13 director in that Respondents billed for services and merchandise listed in the contract but failed to
14 provide all the services and merchandise to the customer. Respondents also attempted to charge
15 the customer an additional fee for storage of a decedent's remains. Complainant refers to, and by
16 this reference incorporates, the allegations set forth above in paragraphs 16 through 35, as though
17 fully set forth therein.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Gross Negligence, Gross Incompetence or Unprofessional Conduct)**

20 42. Respondents Families First Funeral Services and Shon-Tai Burton have subjected
21 their licenses to discipline under sections 7686 and 7707 of the Code, in conjunction with the
22 CCR, title 16, section 1223, subdivision (a), in that Respondents committed gross negligence,
23 gross incompetence or unprofessional conduct in that Respondents moved decedent L.P. from
24 Snyder's Care Center to Brass' church where remains were dressed, casketed and stored. Brass'
25 church is not licensed and approved by the Bureau to store deceased remains and is a potential
26 public health hazard. Complainant refers to, and by this reference incorporates, the allegations set
27 forth above in paragraphs 16 through 35, as though fully set forth therein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Misrepresentation or Fraud)**

3 43. Respondents Families First Funeral Services and Shon-Tai Burton have subjected
4 their licenses to discipline under sections 7686 and 7692 of the Code in that Respondents
5 committed misrepresentation or fraud in the conduct of the business or the profession of a funeral
6 director in that Respondents billed for services and merchandise listed in contracts but failed to
7 provide all the services and merchandise to the customers. Complainant refers to, and by this
8 reference incorporates, the allegations set forth above in paragraphs 36 through 40, as though fully
9 set forth therein.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Gross Negligence, Gross Incompetence or Unprofessional Conduct)**

12 44. Respondents Families First Funeral Services and Shon-Tai Burton have subjected
13 their licenses to discipline under sections 7686 and 7707 of the Code, in that Respondents billed
14 for services and merchandise listed in the contract but failed to provide all the services and
15 merchandise to the customer. Complainant refers to, and by this reference incorporates, the
16 allegations set forth above in paragraphs 36 through 40, as though fully set forth therein.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Failure to Register Death Certificates Within Eight Calendar Days After Death)**

19 45. Respondents Families First Funeral Services and Shon-Tai Burton have subjected
20 their licenses to discipline under section 7686 of the Code and Health and Safety Code section
21 102775, in that Respondents failed to register death certificates for decedents with the local
22 registrar within eight calendar days after death and prior to any disposition of the human remains.
23 Complainant refers to, and by this reference incorporates, the allegations set forth above in
24 paragraph 39, as though fully set forth therein.

25 **SIXTH CAUSE FOR DISCIPLINE**

26 **(Holding of Decedent Pending Disposition More than Eight Calendar Days After Death)**

27 46. Respondents Families First Funeral Services and Shon-Tai Burton have subjected
28 their licenses to discipline under section 7686 of the Code and Health and Safety Code section

1 103070, in that Respondents temporarily held the bodies of decedents pending disposition more
2 than eight calendar days after death. Complainant refers to, and by this reference incorporates, the
3 allegations set forth above in paragraph 39, as though fully set forth therein.

4 **SEVENTH CAUSE FOR DISCIPLINE**

5 **(Failure to Supervise/Exercise Direct Control)**

6 47. Respondents Families First Funeral Services and Shon-Tai Burton have subjected
7 their licenses to discipline under section 7686 of the Code, for violating CCR, title 16, section
8 1204, subdivision (b), in that Respondents Families First Funeral Services and Funeral Director
9 Shon-Tai Burton failed to exercise direct supervision and control over the conduct of Respondent
10 Families First Funeral Services as is necessary to ensure full compliance with the Cemetery and
11 Funeral Act and the regulations adopted. Specifically, during May 10, 2017 to August 9, 2017,
12 Respondent Burton was not involved in the day to day operations of Respondent Families First
13 Funeral Services. Complainant refers to, and by this reference incorporates, the allegations set
14 forth above in paragraphs 16 through 40, as though fully set forth therein.

15 **DISCIPLINARY CONSIDERATIONS**

16 48. To determine the degree of discipline, if any, to be imposed on Respondents Families
17 First Funeral Services and Shon-Tai Burton, Complainant alleges that on or about September 1,
18 2010, in a related disciplinary action entitled *In the Matter of the Accusation Against: All Brass*
19 *Memorial Chapel, Michael A. Brass, Jr., Owner*, Funeral Establishment License No. FD 1922,
20 before the Department of Consumer Affairs for the Cemetery and Funeral Bureau, Case Number
21 A1 2007 292, OAH No. 2008120591, the license of Respondent All Brass Memorial Chapel,
22 Michael A. Brass, Jr. (All Brass), was disciplined for violating the following sections of the
23 Business and Professions Code: sections 7686 (Bureau's Authority to Discipline) and 7692
24 (Fraud); section 7703 (Grounds for Discipline) and CCR, title 16, section 1223.1(g)
25 (Unauthorized Use of Preparation/Storage Room); section 7707 (Unprofessional Conduct); and,
26 section 7703 (Grounds for Discipline) and CCR, title 16, section 1204(b) (Failure to Ensure
27 Compliance with Law and Regulations). Originally charged in Accusation A1 2007 292 filed on
28

1 July 11, 2008, Complainant dismissed Funeral Director License No. FDR 3039, Shon-Tai M.
2 Burton, as a party from the Accusation on September 14, 2009.

3 49. On or about October 5, 2007, the Bureau issued Citation No. IC 2007 91 to
4 Respondent All Brass, for violations of Code sections 7707 (Unprofessional Conduct); and
5 7616(a) (Failure to Maintain a Suitable Room for the Storage of Decedents); and CCR, title 10,
6 section 1214(b) (Failure to Meet Requirements for the Authorization for Disposition with and
7 without Embalming Form); and CCR, title 10, section 1258.1(c)(1)(b) (Failure to Provide Clear
8 Statement of Price Ranges of All Caskets). No fine was assessed.

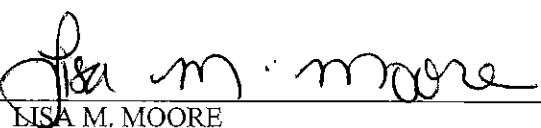
9 50. On or about December 28, 2007, the Bureau issued Citation No. IC 2007 117 to
10 Respondent All Brass for violations of Code section 7692 (Fraud) and CCR, title 16, sections
11 1204(b) (Failure to Ensure Compliance with Law and Regulations)
12 and 1223.1(g) (Unauthorized Use of Preparation/Storage Room). A fine in the amount of
13 \$2,003.00 was assessed. The citation was paid on March 18, 2008.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Director of Consumer Affairs issue a decision:

- 17 1. Revoking Funeral Establishment License No. FD 2247, issued to Families First
18 Funeral Services, Shon-Tai Burton;
19 2. Revoking Funeral Director License No. FDR 3039, issued to Shon-Tai Burton;
20 3. Ordering Shon-Tai Burton to pay the Bureau the reasonable costs of the investigation
21 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
22 4. Taking such other and further action as deemed necessary and proper.

23
24 DATED: August 10, 2018


25 LISA M. MOORE
26 Bureau Chief
27 Cemetery and Funeral Bureau
28 Department of Consumer Affairs
State of California
Complainant

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